

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

DEBORAH ELIZABETH ROWELL	§	
v.	§	CIVIL ACTION NO. 6:10cv564
		Crim. No. 6:09cr53
UNITED STATES OF AMERICA	§	

MEMORANDUM ADOPTING REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE
AND ENTERING FINAL JUDGMENT

The Movant Deborah Rowell, proceeding *pro se*, filed this motion to vacate or correct her sentence under 28 U.S.C. §2255, complaining of the validity of her conviction. This Court ordered that the matter be referred to the United States Magistrate Judge pursuant to 28 U.S.C. §636(b)(1) and (3) and the Amended Order for the Adoption of Local Rules for the Assignment of Duties to United States Magistrate Judges.

Rowell was convicted on her plea of guilty of the offense of conspiracy with intent to distribute at least 50 but less than 500 grams of a substance containing a detectable amount of methamphetamine. She did not take a direct appeal, but complained in her motion to vacate that she received ineffective assistance of counsel, she was entitled to a downward departure for substantial assistance that she did not receive, she suffered from mental defects but counsel failed to ask that these be considered at sentencing even though her condition was so serious that she was hallucinating, and counsel did not tell her that she was waiving her right to appeal. The Magistrate Judge ordered the Government to answer the motion, and Rowell did not file a response to the answer.

After review of the pleadings, the Magistrate Judge issued a Report on May 12, 2011, recommending that the motion to vacate be denied. The Magistrate Judge noted that Rowell had signed a waiver of appeal, which barred most of her claims, and that all of her claims lacked merit. The Magistrate Judge also recommended that Rowell be denied a certificate of appealability *sua sponte*.

Rowell received a copy of the Magistrate Judge's Report on May 19, 2011, but has filed no objections thereto; accordingly, she is barred from *de novo* review by the district judge of those findings, conclusions, and recommendations and, except upon grounds of plain error, from appellate review of the unobjected-to factual findings and legal conclusions accepted and adopted by the district court. Douglass v. United Services Automobile Association, 79 F.3d 1415, 1430 (5th Cir. 1996) (*en banc*).

The Court has carefully reviewed the pleadings in this cause and the Report of the Magistrate Judge. Upon such review, the Court has concluded that the Report of the Magistrate Judge is correct. It is accordingly

ORDERED that the Report of the Magistrate Judge is ADOPTED as the opinion of the District Court. It is further

ORDERED that the above-styled motion to vacate or correct sentence is hereby DISMISSED with prejudice. It is further

ORDERED that the Movant Deborah Rowell is hereby DENIED a certificate of appealability *sua sponte*. Finally, it is

ORDERED that any and all motions which may be pending in this civil action are hereby DENIED.

So ORDERED and SIGNED this 29th day of June, 2011.

A handwritten signature in black ink, appearing to read 'Leonard Davis', written over a horizontal line.

LEONARD DAVIS
UNITED STATES DISTRICT JUDGE